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147

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,976	01/07/2004	Steven James Papapanu	DP-310499	4809

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DELPHI TECHNOLOGIES, INC.
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EXAMINER

ALI, MOHAMMAD M

ART UNIT PAPER NUMBER

3744

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JA

Office Action Summary	Application No. 10/752,976	Applicant(s) PAPAPANU, STEVEN JAMES	
	Examiner Mohammad Ali	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-20 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanada et al., (5,678,419). Sanada et al., disclose an evaporator comprising two first plates 50/52, each having a first configuration, engaged in a back to back mirrored relationship to one another to form a first pair; next to the first pair two second plates 50/52, each having second configuration, engaged in back to back mirrored relationship to one another to form a second pair, the first pair and the second pair stacked together. See Fig. 8.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-10 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanada et al., in view of Nakamura et al., (6,241,011). Sanada et al., disclose the invention substantially as claimed as stated above. However, Sanada et al., do not disclose a peripheral lip forming cavity and a trough. Nakamura et al., teach the use of peripheral lip 2 and trough/recess 4 with circular wall 25 in an evaporator for the purpose of forming cavity and inlet/outlet ports respectively. See Fig. 7 and 10. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the evaporator of Sanada et al., in view of Nakamura et al., such that peripheral lip and trough could be provided in order to form cavity and inlet/outlet ports.

Response to Arguments

Applicant's arguments filed 12/20/04 have been fully considered but they are not persuasive. The applicant argued, "In the Office Action dated October 12, 2004, claims 1 and 12-14 stand rejected under 35 U.S.C. 9 102(b) as being anticipated by Sanada et al, U.S. Pat No. 5.678.419. It is submitted Sanada et al., does not teach or suggest first and second configured plates as recited in the claims. The plates 50, 52 of Sanada share the same configuration. In addition, Sanada et al, teaches the plates 50, 52 are symmetrical at column 5, line 67 through column 6, line 1. When considered in view of Fig. 7 and 8, this statement can only mean that the plates have same configuration. Plates 50, 52 are only symmetrical when stacked in back-to-back mirrored relation. -----

- Claims 2-10 and 15-20 stand rejected under 35 U.S.C.103(a) as being unpatentable over Snnnda et al., in view of Nakamura et al., U.S. Pat. No. 6,241,011. It is submitted that neither Sanada et al., nor Nakamura et al., individually or in any permissible combination, teach or suggest first or second configuration plates as recited in the claims 1 and 12, from which claims 2-10 and 15-20 depend." The examiner disagrees. The claims 1, 12 and 20 do not recite the first configuration is different from the second configuration. Therefore, rejections are proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Ali whose telephone number is 703-308-5032. The examiner can normally be reached on Monday to Friday.

Art Unit: 3744

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Esquivel Denise can be reached on 703-308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Mohammad M. Ali
January 3, 2005


William E. Tapolcai
Primary Examiner
Art Unit 344